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असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित
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नई दिल्ली, शुक्रवार, मार्च 27, 1998/चैत्र 6, 1920
NEW DELHI, FRIDAY, MARCH 27, 1998/CHAITRA 6, 1920

गृह मंत्रालय

अधिसूचना

नई दिल्ली, 27 मार्च, 1998

का.आ. 261 (अ).—केन्द्रीय सरकार ने विधि विरुद्ध क्रियाकलाप (निवारण) अधिनियम, 1967 (1967 का 37) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, बोलो लिब्रेशन टाइगर (बी.एल.टी.) को भारत सरकार के गृह मंत्रालय अधिसूचना सं. का.आ. 715 (अ), तारीख 8 अक्टूबर, 1997 (जिसे इसमें इसके पश्चात् उक्त अधिसूचना कहा गया है);

और केन्द्रीय सरकार ने उक्त अधिनियम की धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार के गृह मंत्रालय की अधिसूचना सं. का.आ. 763 (अ), तारीख 6-11-1997 द्वारा विधि विरुद्ध क्रियाकलाप (निवारण) अधिकरण का गठन किया था, जिसमें दिल्ली उच्च न्यायालय के न्यायाधीश न्यायमूर्ति श्री लोकेश्वर प्रसाद थे;

और केन्द्रीय सरकार ने उक्त अधिनियम की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त अधिसूचना को 6-11-1997 को इस बात के न्यायमिर्णयन के प्रयोजन के लिए उक्त अधिकरण को निर्दिष्ट किया था कि क्या उक्त संगम को विधि विरुद्ध घोषित करने के लिए पर्याप्त कारण था अथवा नहीं;

और उक्त अधिकरण ने उक्त अधिनियम की धारा 4 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त अधिसूचना में की गई घोषणा की पुष्टि करते हुए, तारीख 24 मार्च, 1998 को एक आदेश किया था;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 4 की उपधारा (4) के अनुसरण में, उक्त अधिकरण के उक्त आदेश को प्रकाशित करती है, अर्थात् :—

—अंग्रेजी पाठ के अनुसार—

H./-

न्यायमूर्ति लोकेश्वर प्रसाद,

विधि विरुद्ध क्रियाकलाप (निवारण) अधिकरण
नई दिल्ली में 24-3-1998 को हस्ताक्षरित तथा सुपुर्द ।

[फा. सं.-11011/4/97-एन.ई.-IV]

जी. के. पिल्लौ, संयुक्त सचिव

MINISTRY OF HOME AFFAIRS

NOTIFICATION

New Delhi, the 27th March, 1998

S.O. 261(E).—Whereas the Central Government, in exercise of the powers conferred by sub-section (1) of the section 3 of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967), declared the Bodo Liberation Tiger (BLT) to be an unlawful association vide notification of the Government of India in the Ministry of Home Affairs No. S.O. 715(E)—dated the 8th October, 1997 (hereinafter referred to as the said notification) ;

And whereas the Central Government, in exercise of the powers conferred by sub-section (1) of section 5 of the said Act, constituted vide notification of the Government of India in the Ministry of Home Affairs No. S.O. 763(E), dated the 6th November, 1997, the Unlawful Activities (Prevention) Tribunal, consisting of Justice Shri Lokeshwar Prasad, Judge, Delhi High Court,

And whereas the Central Government, in exercise of the powers conferred by sub-section (1) of section 4 of the said Act, referred the said notification to the said Tribunal on the 6th November, 1997 for the purpose of adjudicating whether or not there was sufficient cause for declaring the said association as unlawful;

And whereas the said Tribunal, in exercise of the powers conferred by sub-section (3) of section 4 of the said Act, made an order on the 24-3-1998 confirming the declaration made in the said notification;

Now, therefore, in pursuance of sub-section (4) of section 4 of the said Act, the Central Government hereby publishes the said order of the said Tribunal, namely :—

**BEFORE THE UNLAWFUL ACTIVITIES
(PREVENTION) TRIBUNAL**

[Constituted under Section 5(1) of the Unlawful Activities (Prevention) Act, 1967]

In Re. :

Bodo Liberation Tiger (BLT)

Coram :

Hon'ble Mr. Justice Lokeshwar Prasad

Present :

Central Government through Sh. A. K. Valli,
Advocate.

State of Assam through Sh. Vijay Hansaria,
Advocate.

Bodo Liberation Tiger—Ex-Parte.

ORDER

The Central Government, in exercise of the powers conferred by sub-section (1) of Section 3 of the Unlawful Activities (Prevention) Act, 1967 (hereinafter referred to as 'the Act'), declared the Bodo Liberation Tiger and the various wings (for short BLT) as an 'unlawful association'. A notification, bearing No. S.O. 715(E) dated the 8th October, 1997, was issued to the above effect by the Government of India, Ministry of Home Affairs which was published in the Gazette of India (Extraordinary) Part-II, Section 3(ii) dated the 8th October, 1997. In accordance with the proviso to sub-section (3) of Section 3 of the Act, the above said

notification was brought into effect from the date of its publication in the Official Gazette.

Since in the above said notification certain printing errors had crept in, the Government of India, Ministry of Home Affairs, with a view to rectify the same, issued a corrigendum vide notification No. S.O. 773(E) dated the 10th November, 1997 which too was published in the Gazette of India (Extraordinary) Part-II Section 3 Sub-section (ii) dated the 10th November, 1997.

The notification bearing No. S.O. 715(E) dated the 8th October, 1997, as rectified by a subsequent notification dated the 10th November, 1997, reads as under :—

**MINISTRY OF HOME AFFAIRS
NOTIFICATION**

New Delhi, the 8th October, 1997

SO. 715(E).—Whereas the Bodo Liberation Tiger and the various wings (hereinafter referred to as BLT) has, as its professed aim, the creating of a separate Bodoland State within the Indian Union through an armed struggle and to organise insurgency and underground activities leading to a 'mass revolution' and thereby, the disruption of the sovereignty and territorial integrity of India ;

And whereas, the Central Government is of the opinion that BLT has

- (i) indulged in various illegal and violent activities intended in furtherance of its objective of creating a separate Bodoland State in Assam ;
- (ii) in pursuance of its aims and objectives recently engaged in several unlawful and violent activities ;

And whereas, the Central Government is further of the opinion that the unlawful and violent activities include.

- (a) 104 violent and terrorist incidents which are attributed to BLT during the period from 1996 to July, 1997.
- (b) indulging in a spate of extortion activities in addition to its acts of kidnapping for ransom;
- (c) embarking on a programme of structuring its organisational network at grass root level by launching a quiet but systematic drive for recruitment of fresh cadres and revamping of district and anchalic level, while continuing its terrorist and insurgency activities ;

- (d) rocking the State by carrying a series of bomb explosions including the serious bomb explosions which took place in Brahmaputra Mail on the night of 30-12-96 near Sesapani Railway Station in Kokrajhar district and which resulted in the death of 34 passengers and injuries to 63 others ;
- (e) on 8-8-97, BLT activists exploded powerful bomb under the bridge on NH-37, resulting in damage to the bridge ;
- (f) on 11-8-97, BLT activists exploded a high power bomb under the Tangni bridge No. 48/1 on NH-52 ;
- (g) on 11-8-97, a powerful bomb was exploded on Railway Track in between Sarupeta and Gaugacha Railway Station while Rajdhani Express was proceeding for Delhi resulting derailment of engine and 6 coaches ;
- (h) on 20-8-97, a powerful explosion set off by Bodo militants blow up a bridge, halting movement of trains and injuring three persons in Kokrajhar district of Assam ;

And whereas, the Central Government is also of the opinion that on the basis of material placed before it the activities of BLT promote enmity between Bodos and non-Bodo communities in Bodo dominated areas and Bodoland Autonomous Council (BAC) areas in Assam and is thus doing acts which are prejudicial to the maintenance of harmony in the State of Assam and thus considers BLT as an unlawful association ;

Now, therefore, in exercise of powers conferred by sub-section (1) of section 3 of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967), the Central Government hereby declares the Bodo Liberation Tiger (BLT) an unlawful association.

And whereas the Central Government is further of the opinion that if there is no immediate curb and control of unlawful activities of BLT, it will take the opportunity to :—

- (1) mobilise its cadres for escalating its subversive and terrorist and violent activities;
- (2) openly propagate activities which will promote enmity between Bodo and Non-Bodo communities and to other acts prejudicial to maintenance of harmony ;
- (3) indulge in increased killings of civilians and targetting of police and security force personnel.

- (4) procure and induct more illegal arms and ammunitions ;
- (5) extort and collect huge funds and illegal taxes from the public for its unlawful activities ;

And whereas, the Central Government is also of the opinion that having regard to the activities of BLT mentioned above and to meet the sustained and ever increasing violence committed by the BLT in the recent past against the police, the other armed forces and the civilians, it is necessary to declare the BLT to be an unlawful association with immediate effect and accordingly, in exercise of the powers conferred by the proviso to sub-section (3) of that section the Cetnral Government hereby directs that the notification shall, subject to any order that may be made under section 4 of the said Act, have effect from the date of its publication in the Official Gazette.

[F. No. 11011/4/97-N.E.-IV]

G. K. PILLAI, Jr. Secy.”

Vide notification No. S.O. 763(E) dated the 6th November, 1997, published in the Gazette of India (Extraordinary) Part-II Section 3 Sub-section (ii) of even date, the Central Government in exercise of the powers conferred by Sub-section (1) of Section 5 of the Act constituted this Tribunal for the purpose of adjudicating as to whether or not there is sufficient cause for declaring the above said Association (BLT) unlawful and referred the abovesaid notification to the Tribunal for the above said purpose in pursuance of the provisions of Sub-section (1) of Section 4 of the Act. Alongwith the statutory reference, the Central Government, has also annexed a brief ‘resume’ regarding the aims, objects and activities of the BLT. In the above said ‘resume’, the Central Government have inter-alia stated the following facts about the BLT :—

The organisation Bodo Liberation Tiger (BLT) was formed during the year 1993 with the avowed aim and objective of creating a separate Bodoland State within the Indian Union through armed struggle. The BLT has been committing several crimes like killing of civilians, mostly on-Bodos, security forces/ police personnel, extortion and kidnappings.

The aims and objectives of BLT are :

- (a) To create a separate Bodoland State for the survival of Bodos.
- (b) to establish Democratic Socialism after the creation of the State ; and
- (c) to develop and organise insurgency and underground activities leading to a “mass

revolution" for the creation of a separate Bodoland State.

During the year 1996, the outfit committed 104 violent incidents resulting in the death of 129 persons and injuries to 110 persons in course of their armed attacks on the civilian/Police/Para Military personnel. The BLT activities also looted arms, 44 in number, of different assortments and 1965 rounds of ammunition from the Police/Para Military personnel after launching attacks/laying ambushes against them. Besides, altogether persons, including an IAS officer, were kidnapped by the outfit, of whom 25 persons were subsequently released and 15 persons were killed. Moreover, the BLT activities looted large amount of money from various individuals, businessmen, Government employees serving in the Bodoland Autonomous Council (BAC) areas through intimidation, terror and killing. Significantly, many of the cases of such forcible collection/extortion of money by the BLT have gone unreported to police as the aggrieved parties have been found unwilling to lodge any formal complaint with the police due to fear of reprisal and retaliatory violence by the BLT cadres. During the year 1997 i.e. from 1-1-97 to 20-8-97, BLT had been responsible for 45 incidents of violence resulting in the killing of 39 persons.

The BLT has acquired high powered explosive devices in Oct./Nov., 1996. More than 200 active cadres of BLT underwent training in training camps situated at Chiknajbar Forest Reserve in Kokrajhar district located on the border of Assam-Bhutan. BLT is also reportedly responsible for the bomb explosion in Brahmaputra Mail in Dec., 1996. In the Debargaon office of the BLT, the crucial decision was taken to cause explosion by using high powered explosive devices on the N. H. 31 and the railway track during the month of Dec., 1996 to create terror and to force the Central and the State Government of Assam to concede a full fledged Bodoland State as demanded by the BLT. The BLT has established its network in the district of Kokrajhar, Dengaigaon, Nalbari, Kamrup and Darrang by forming various units at district and anchalic (sub-district) level.

The outfit is at war with National Democratic Front of Bodoland (NDFB) another militant outfit active in Bodo areas of Assam. The BLT has unleashed a campaign of terror among the non-Bodo population living in the BAC areas and the Bodos owing allegiance to the People Democratic Front(PDF). The BLT activities are also suspected behind the ethnic riots involving members of Bodo and Santhal communities which took place immediately following the general elections in May, 1996 and resulting in death of nearly 200 civilians mostly Santhals—a non-Bodo community.

BLT has been indulging in various illegal violent activities with a view to create a deep sense of insecurity among the non-Bodo people. Besides violence, the outfit

has also been indulging in large scale extortion, most of which is aimed against non-Bodo community. BLT has also indulged in acts of violence during week leading to Independence Day celebrations. Chief Minister, Assam has also written requesting that the organisation be declared as unlawful association.

It is stated in the resume that considering the situation described in the preceding paragraphs, the following grounds emerge in support of declaring BLT as an unlawful association.

- (i) that the BLT has, as its aim the objective of creating a separate Bodoland state within the Indian Union through armed struggle; and
- (ii) in pursuance of its aims and objectives, has been engaging in several unlawful and violent activities undermining the authority of the lawfully established Government and spreading terror and panic among non-Bodo communities residing in BAC areas and such unlawful activities include :—
 - (a) Use of high powered explosive devices on the National Highway and Railway property to cause extensive dislocation to road and rail traffic between Assam and rest of the country and thus creating sense of terror;
 - (b) killing of civilians mostly non-Bodos, and security force personnel, causing injuries to them and looting of arms and ammunitions;
 - (c) kidnapping of persons mostly non-Bodos with a view to extract huge sums of ransoms; and
 - (d) establishing camps, hide-outs to carry out its violent activities.

As per the facts stated in the resume the BLT activists looted large amount of money from various individuals, businessmen, Government employees serving in the Bodoland Autonomous Council (BAC) areas through intimidation, terror and killing during the year 1996. It is further stated that many of the cases of such forcible collection/extortion of money by the BLT had gone unreported to the police as the aggrieved persons were found unwilling to lodge any formal complaint with the police due to fear of reprisal and retaliatory violence by the BLT cadres. During the year 1997 (from 1-1-97 to 20-8-97), BLT had been responsible for 45 incidents of violence resulting in the killing of 39 innocent persons.

It is stated that the terrorist and insurgency activities, launched by the BLT have led to deep sense of panic and fear amongst the members of the non-Bodo communities inhabiting the Bodoland Autonomous Council (BAC) areas. It is also stated that in the opinion of the Central Government

unless the ban is immediately imposed the above said organisation is likely to make large scale fresh recruitments, indulge in violent terrorist activities, collect funds through extortion etc. and endanger lives of innocent non-Bodos and security force personnel. It is stated that the activities of the above said organisation would create a division between the Bodos and non-Bodos which would be prejudicial to their harmonious co-existence in future. Alongwith the resume the Central Government have also annexed a statement (marked as Annexure-II), giving the details of some of the major incidents of violence attributed to the BLT from December, 1996 to August, 1997.

On receipt of the reference, the Tribunal issued a notice under Sub-Section (2) of Section 4 of the Act to the BLT calling upon it to show cause within thirty days from the date of the service of the notice as to why it should not be declared unlawful and why an order be not made confirming the declaration made in notification dated the 8th October, 1997. The above said notice was directed to be served and published by various modes as detailed in the order dated 19th November, 1997. The operative portion of the abovesaid order runs as under :—

“Let a notice, in terms of the provisions contained in Section 4(2) of the Act, be issued to the BLT including its various wings declared as unlawful association by the above said notification, issued by the Government of India, asking to show cause within thirty days from the date of the service of such notice why the BLT and its various wings, referred to in the above said notification, be not declared as unlawful association.

The show cause notice shall be served on the above said association (BLT) and its various wings on the addresses as may be available by publication in the newspaper published and circulated in the State of Assam and also by affixing a copy thereof on some conspicuous part of the office of the Association as also by serving a copy of the notice on the Principal Office bearers, if any, of the above said Association; by registered post or otherwise and further by proclaiming by beat of drums or by means of loud speaker, the contents of the notice and notification in the area in which the activities of the Association are alleged to be ordinarily carried on. The service of the notice may also be effected by pasting the same on prominent public places including the office of the District Magistrates in the State of Assam. In addition it is directed that the contents of the notice shall be brought to the notice of all concerned by making an announcement over the Radio/T.V. from the local/nearest broadcasting station of All India Radio and T.V. Centre.

The show cause notice, duly served, shall be returned to the office of the Registrar of the Tribunal, situated at 103, 1st floor, Block A, High Court of Delhi, Sher Shah Road, New Delhi-110 003.

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The Central Government and the State Government of Assam shall take immediate steps to effect the service of the notice in terms of the above order within two weeks from today. The service report shall be submitted to the Registrar of the Tribunal soon thereafter with supporting affidavits.

For awaiting service report to come up on 17th December, 1997 at 3.00 p.m.”

Separate affidavits of service have been filed by the Central Government and also by the State of Assam stating therein that the notice was duly served/got published in terms of the above order of this Tribunal.

The Tribunal received a representation dated the 13th December, 1997 by post from one Shri Mainao Diamary claiming himself to be the Publicity Secretary to the BLT. In the representation, received from the end of said Shri Mainao Diamary, in nutshell it is stated that the above said organisation is not carrying on any ‘unlawful activity’ within the meaning of Section (2)(f) of the Act and, therefore, it cannot be declared as an unlawful association within the meaning of Section 2(g) of the said Act. It is also stated that the above said Organisation is also not engaging itself in any activity promoting enmity between different groups on grounds of religion, race, place of birth, residence, language etc. and/or doing acts prejudicial to the maintenance of harmony, peace and public tranquility, offending Section 153A of the Indian Penal Code (hereinafter referred to as ‘the IPC’). It is prayed in the above said representation that the same may be examined and considered by this Tribunal in the context of the notification dated 8th October, 1997, issued by the Central Government declaring the above said Organisation as an unlawful association.

A copy of the above said representation was given to the counsel for the Central Government and also to the counsel for the State of Assam and since on the date fixed for hearing i.e. on 17-12-97 none was present on behalf of said Shri Mainao Diamary, as a measure of abundant caution it was directed that a Separate notice of the next date of hearing be given to said Shri Mainao Diamary and the same was directed to be served by Union of India and State of Assam on the address mentioned in the representation. In addition it was directed that the notice of the next date of hearing be also served on said Shri Mainao Diamary per registered post and also through the Deputy Commissioner Kokrajhar (Assam).

Separate affidavits in reply to the representation of said Shri Mainao Diamary have been filed on behalf of the Central Government and also on behalf of State of Assam. On behalf of the Central Government, affidavit in reply has been filed by Mr. L.K. Prasad, Under Secretary to the Government of India, Ministry of Home Affairs. On behalf of the State of Assam reply has been filed alongwith a supporting affidavit, duly signed and sworn, by Mr. Moloy

Bora, Deputy Secretary to the Government of Assam, Department of Home and Political Affairs. Both the Central Government and the State of Assam in their reply have taken a preliminary objection stating therein that no power of attorney or any authorisation has been filed by said Shri Mainao Diamary authorising him to represent the case of BLT before this Tribunal. On merits it is stated that no material has been placed on record by said Shri Mainao Diamary to substantiate his contention that the above said organisation is not indulging in the activities as stated in the notification. In the affidavit filed on behalf of the Central Government specific incidents and cases have been mentioned which have been registered against the BLT activists. It is stated in the reply filed on behalf of the Central Government and the State of Assam that there are sufficient grounds for confirming the declaration made by the Central Government in the notification dated the 8th October, 1997 declaring the BLT as an unlawful association.

Since none appeared either on behalf of the Bodo Liberation Tiger (BLT) or on behalf of said Shri Mainao Diamary despite service of notice, the above said organisation i.e. Bodo Liberation Tiger (BLT) and said Shri Mainao Diamary were directed to be proceeded *ex parte* in the present proceedings vide order dated the 21st January, 1998.

This Tribunal, after hearing the learned counsel for the Central Government and the counsel for the State of Assam and also after taking into consideration the documents, the pleas taken by the parties and material on record, framed the following issues :—

- (i) whether on the facts and circumstances stated in the Notification No. S.O. 715(E) dated the 8th October, 1997 and the Notification No. S.O. 773(E) dated 10th November, 1997, issued by the Government of India, Ministry of Home Affairs and the resume accompanying the reference, there is sufficient cause for declaring the Bodo Liberation Tiger (BLT) as an Unlawful Association within the meaning of Section 3(1) of the Unlawful Activities (Prevention) Act, 1967?

(Onus on the Government)

- (ii) whether or not there is sufficient cause for confirming the declaration made by the Central Government in the aforesaid notifications.

(Onus on the Government)

- (iii) whether said Shri Mainao Diamary can be permitted and treated to be representing the cause of Bodo Liberation Tiger (BLT) before this Tribunal?

(Onus on BLT/Mainao Diamary)

On 22-1-98 it was represented by the learned counsel for the Central Government and also by the learned counsel

for the State of Assam that most of the material in support of the case as well as the witnesses who were to depose, were available at Guwahati, Shillong and other places in the State of Assam. It was, therefore, jointly requested by them that the witnesses on behalf of the Central Government and on behalf of the State of Assam be examined at Guwahati and other places in the State of Assam and also at Shillong. In the interest of justice the prayer, made by the learned counsel for the Central Government and also by the learned counsel for the State of Assam was acceded to and it was directed that further hearing in the matter would take place in the State of Assam with effect from 6-2-98 and on that date the hearing would commence at Guwahati.

On the above said date i.e. 22-1-98 the Central Government as well as the State of Assam were permitted to lead evidence by way of affidavits. It was directed that affidavit by way of evidence on behalf of the Central Government and also on behalf of the State of Assam be filed on or before 2-2-98.

In pursuance of the above order, on behalf of the Central Government, an affidavit, duly signed and sworn by Sh. L.K. Prasad, Under Secretary to the Government of India, Ministry of Home Affairs, has been filed whereas on behalf of the State of Assam, an affidavit has been filed by Sh. Moloy Bora, Deputy Secretary (Home), Government of Assam. Since both the above mentioned affidavits were not filed within the above said prescribed time limit, the Central Government and the State of Assam also filed separate applications seeking condonation of delay in filing the affidavits. In view of the facts stated in the applications which were duly supported by affidavits, the delay in filing the affidavits was condoned and the affidavits filed on behalf of the Central Government and also on behalf of the State of Assam by way of evidence were taken on record.

Sh. Moloy Bora, Deputy Secretary (Home), Government of Assam alongwith his affidavit dated the 23rd January, 1998, filed by way of evidence, also enclosed a copy of the Constitution of the BLT, manifesto of BLT, a statement in the form of a chart giving the figures of the incidents related to BLT during the year 1996, another statement in the form of a chart giving the figures of the incidents relating to BLT during the year 1997, copies of the relevant FIRs, copies of some of the demand letters issued by the activists of BLT, copies of the press releases issued by the BLT from time to time, paper clippings containing the press releases issued by the BLT from time to time and paper clippings regarding the news appearing in various newspapers with regard to the activities of BLT. Sh. L.K. Prasad, Under Secretary to the Government of India, Ministry of Home Affairs alongwith his affidavit dated the 3rd February, 1998 also, filed by way of evidence has also, annexed a copy of the Constitution of BLT, a copy of the manifesto of BLT, a detailed chart giving the figures of the violent incidents attributable to the BLT during the year

1996, another chart giving the same figures attributable to BLT during the year 1997, details of some of the cases registered against BLT under Section 153-A and 153-B IPC and copies of the statements of some of the members of the BLT.

On 6-2-1998, on behalf of the State of Assam three witnesses, namely, Shri B.K. Bordoloi (PW-1), Sh. Pallab Bhattacharyya (PW-2) and Sh. Abdul Hakim (PW-3) were produced at camp Guwahati and their statements were recorded. PW-1 Sh. B.K. Bordoloi, Additional Superintendent of Police, Nalbari District in his statement before this Tribunal stated that he had been working as Additional Superintendent of Police Nalbari since October, 1995. He stated that in his capacity as Additional Superintendent of Police, Nalbari he was aware of the activities of the BLT in the District under his charge. It has been further stated by him in his statement that the main object of the BLT is to drive out the non-Bodos from the Bodo dominated areas and with that object in view they are indulging in extortion of money, kidnappings, murder and creating communal disharmony. It was stated by him that the target of the activities of the BLT are non-Bodos. In his statement he narrated in detail the incidents which took place on 27-6-97, 7-9-1997, 22-5-1997, 20-10-1996, 7-8-1997, 10-10-1997 and 8-9-1996 resulting in loss of life and property of non-Bodos. It was stated by him that on 7-8-1997 a Bomb was planted under bridge No. 1044/1, situated in between Nathkuchi and Bhella Chowk on National Highway No. 31 thereby causing damage to the bridge. It was further stated by him that just on the eve of Independence Day, on the night falling between 14/15-8-1997 the members of the BLT planted a Bomb under Mara-Pagladia Bridge which exploded and as a result of the explosion of the Bomb the Western portion of the bridge was damaged. This witness categorically stated that the members of the BLT are indulging in the above said activities of extortion, killing, damage to property with a view to create terror in the non-Bodos in the Bodo dominated areas so that they may leave that areas. He has further stated that he made requests to independent persons from the public to come before this Tribunal and to depose the facts but despite best efforts on account of fear and threat of Bodo extremists those persons are not coming forward to depose the facts before this Tribunal.

PW-2 is Sh. Pallab Bhattacharyya, Superintendent of Police, Darrang. This witness in his statement stated that he was working as Superintendent of Police Darrang since 15-10-97. He further stated that he was aware of the activities of BLT in the District under his charge. It was stated by him that the main object of the BLT is to create an independent Bodo land for the Bodos and with that object in view they are indulging in various disruptive activities including bomb explosions, extortion of money, murders and other heinous crimes so as to create terror and fear psychosis in the minds of non-Bodos. This witness in his statement made a specific

mention of an incident which took place on 14-6-96 in the vegetable market of Mangaldoi Town where a high powered explosive device was exploded in the market as a result of which five innocent persons lost their lives and 51 persons sustained injury. It was stated by him that a case was registered and during investigation he was informed that the BLT activists were virtually behind the above said explosion. This witness also stated that he repeatedly requested the independent persons/witnesses to appear before the Tribunal but they are so badly terrorised as a result of BLT activities that none of them is gathering courage to appear before the Tribunal to state the above facts against the BLT. PW-3 Sh. Abdul Hakim is the Additional Superintendent of Police Goal-Para. This witness stated that he had been working as Additional Superintendent of Police of Goal-Para since 8-1-98. He stated that he too was aware of the activities of BLT in the District under his charge, more particularly within the jurisdiction of Police Station Dudhnoi. It was stated by him that the activists of BLT were indulging in looting the persons, committing murders, extorting money with the object of creating terror in the minds of non-Bodos with a view to drive them out from the Bodo dominated areas. This witness also narrated a number of incidents which resulted in loss of life and property of non-Bodos. It was stated by him that the BLT activists were the persons who were actually responsible for the abovesaid crimes. It was also stated by him that he too requested the persons from the public to come before this Tribunal and state the facts but on account of fear which they apprehend to their lives from the BLT they are not willing to come before this Tribunal and depose the above facts.

On 7-2-98 at Camp Guwahati the State of Assam produced five more witnesses, namely, Sh. P. D. Goswami (PW-4), Sh. L. B. Singh (PW-5), Sh. Enamul H. Laskar (PW-6), Sh. Sarat Goswami (PW-7) and Sh. Anil Phookan (PW-8). Sh. P. D. Goswami (PW-4) is the Superintendent, Railway Police, Pandu. Sh. L. B. Singh is the Additional Superintendent of Police (Headquarter) Kokrajhar. Sh. Enamul H. Laskar (PW-6) is the Sub-Divisional Police Officer, Bijney, Sh. Sarat Goswami (PW-7) is the Additional Superintendent of Police Barpeta and Sh. Anil Phookan (PW-8) is the Superintendent of Police District Kamrup. All the above mentioned witnesses in their statement before the Tribunal stated that they were aware of the activities of the BLT in the areas under their charge. It was also stated by them that the activities of the BLT are directed against those persons who are non-Bodos. All of them, in their statements, have narrated the incidents which have taken place in the recent past in the areas under their charge resulting in loss of life and property on a large scale. All of them except Sh. P. D. Goswami (PW-4) have stated in their statements that they requested the persons from the public to appear before this Tribunal and to state the facts which are within their knowledge with regard to the activities of the BLT but on account of the terror, threat and fear psychosis

of the BLT they refused to appear before this Tribunal to state the facts within their knowledge. Sh. P. D. Goswami (PW-4). Superintendent, Railway Police, Pandu stated that he made no request to any person because whatever information was received by him, was received by him from a secret source and he did not think it proper to do so in public interest.

On 10-2-98 at Camp Shillong three more witnesses, namely, Sh. S. N. Talukdar (PW-9), Sh. D. Ahmad (PW-10) and Sh. Moloy Bora (PW-11) were produced before this Tribunal on behalf of the State of Assam and their statements were recorded. PW-9 Sh. S. N. Talukdar in his statement stated that he had been working as Special Superintendent of Police, CID, Assam since 7-10-97. Prior to that he was posted as Superintendent of Police Bongaigaon. He also stated that he was aware of the activities of BLT in the State of Assam. As per the version of this witness, the main object of the above said organisation is to carve out a separate State for themselves for the Bodos and with a view to achieve the above object the members of the BLT are indulging in terrorist activities i.e. indiscriminate killing of innocent persons, extortion of money and other heinous crimes. It was stated by him that the above said organisation is trying to run a parallel Government. It was stated by him that on 30-12-95 two powerful bombs were planted at the Railway track at Sesapani in Kokrajhar District causing explosion in Brahmaputra Mail as a result of which 33 passengers, who were travelling by that train were killed at the spot and 72 persons sustained injuries. It was stated by him that the BLT claimed responsibility for the above said bomb explosions and a news item to the above effect appeared in the daily 'The Sentinel' dated the 3rd January, 1997 (Exhibit P-9/B). It was also stated by him that during the course of investigation 12 persons were arrested and during interrogation Sh. Bipul Narzrari alias Raju, who is a BLT activist, stated that he alongwith the other BLTF militants exploded the bomb resulting in damage to Brahmaputra Mail and loss of lives of innocent persons. This witness stated that he tried his best to produce independent witnesses before this Tribunal but due to fear of BLT they are not willing to come forward and depose the facts before this Tribunal.

Sh. D. Ahmad (PW-10) stated that he was working as Superintendent of Police (Special Operation Unit), Assam since September, 1997 and in his capacity as Superintendent of Police (Special Operation Unit) he was required to deal with the extremist activities in the State of Assam. It was stated by him that he keeps on monitoring the activities of the extremists in the State of Assam on the basis of information received from the Superintendents of Police of the various Districts in the State of Assam and also on the basis of the intelligence reports received by him. He stated that after receiving the information from the above sources the same is cross-checked and thereafter further action is taken in the matter. He also stated that he was aware of the activities of the BLT in the State of Assam and the main

object of the above said organisation is to have a separate State by name Bodoland for the Bodos through armed struggle. He stated that the above said organisation has a constitution of its own, a copy of which could be procured and was produced before this Tribunal. It was stated by him that the above said organisation has also issued a manifesto (copy of which is Exhibit PW-10/B). It was stated by him that the above said organisation indulges in extortion of money from the non-Bodos for the purpose of raising funds. This witness proved and exhibited the copies of some of the demand letters wherein money has been demanded by the BLT activists. This witness in his statement stated that in the month of May, 1996 the Bodo activists indulged in large scale attacks on 'Adivasi santhals' in Kokrajhar and Bongaigaon districts as a result of which about 160 non-Bodo santhals were killed and more than 200 houses were burnt resulting in large scale exodus of about 2,00,000 santhals from their homes. It was stated by him that about 2,00,000 santhals who were forced to leave their home had to take shelter in the relief camps set up by the State of Assam. As per the version of this witness till 10-2-98 all the santhals had not gone back to their respective homes and out of fear of BLT about 15,000 santhals are still staying in 12 refugee camps which are being run by the State of Assam. This witness also stated that he requested independent persons from the public to come before this Tribunal and to state the facts but on account of reprisal and terror of the BLT they refused to do so.

PW-11 is Sh. Moloy Bora, Deputy Secretary (Home & Political Department) in the State of Assam. This witness in his statement stated that in his capacity as Deputy Secretary (Home & Political Department) he was looking after the administrative work relating to counter insurgency operations in the State. He stated that he was aware of the activities of BLT in the State of Assam. He proved and exhibited the affidavit signed and sworn by him on behalf of the State of Assam and which has been tendered on behalf of the State of Assam by way of affidavit. After the statement of Sh. Moloy Bora PW-11 the learned counsel for the State of Assam closed the evidence on behalf of the State of Assam.

After the closure of the evidence on behalf of the State of Assam, the learned counsel for the Central Government examined Sh. L. K. Prasad, Under Secretary to the Government of India, Ministry of Home Affairs, Sh. L. K. Prasad (PW-12) in his statement stated that he was working as Under Secretary to the Government of India, Ministry of Home Affairs, dealing with Assam matters since June, 1991. This witness proved and exhibited the affidavit filed by way of evidence (Exhibit PW-12/A) and the annexures annexed to it. This witness in his statement has also stated that besides the receipt of the information with regard to the activities of the BLT from the concerned authorities of the State of Assam from time to time the Central Government also received information from its own sources i.e. Intelligence Bureau and the Army Authorities, stationed at the various places in

the State of Assam. It was further stated by him that after carefully examining the information received from the various sources and the material supplied, the Central Government was satisfied that the above said organisation should be declared as an unlawful association under the Act and accordingly a notification to the above effect was issued by the Government of India, Ministry of Home Affairs which was duly published in the Gazette of India. It was also stated by him that the Central Government was also satisfied keeping in view the facts and circumstances of the case that it was necessary to declare the above said organisation as an unlawful association with immediate effect and, therefore, vide above mentioned notification it was also notified that the above organisation would be an 'unlawful association' within the meaning of the above said Act with immediate effect. After the statement of Sh. L. K. Prasad (PW-12) the learned counsel for the Central Government also closed the case of the Central Government.

I have heard the learned counsel for the Central Government and also the learned counsel for the State of Assam and have also carefully gone through the documents/material on record. My findings in respect of the issues are as under :

ISSUE NO. 1

Before discussing the merits of the matter I would like to examine the scope and nature of inquiry to be conducted by this Tribunal for the purpose of adjudication as to whether there is sufficient cause for declaring the BLT as an unlawful association.

As already stated, the BLT has been declared as an 'unlawful association' by the Central Government under Section 3 sub-section (1) of the Act and a 'reference' in terms of section 4 of the Act has been made to this Tribunal. The scheme of the Act in so far as the same is relevant for the present purpose can be summarised in the following words:—

"Under sub-section (1) of Section 3 the Central Government is empowered to declare any association as unlawful, by notification in the Official Gazette, which association in its opinion is or has become unlawful. Section 2(a) defines 'association' to mean "any combination or body of individuals". Section 2(f) defines 'unlawful activity' in relation to an individual or association to mean "any action taken by such individual or association, whether by committing an act or by words either spoken or written or by signs or by visible representations or otherwise, which (i) is intended, or supports any claim to bring about, on any ground whatsoever, the cession of a part of the territory of India or the secession of a part of the territory of India from the Union, or which invites any individual or group of individuals to bring about such cession or secession, or (ii) disclaims, questions, disrupts or it intended to disrupt the sovereignty and territorial integrity of India". Section 2(g) defines 'unlawful association' to mean "any association

which (i) has for its objects any unlawful activity, or which encourages or aids persons to undertake any unlawful activity, or of which the members undertake such activity; or (ii) has for its object any activity which is punishable under section 153-A or section 153-B of the Indian Penal Code, or which encourages or aids persons to undertake any such activity, or of which the members undertake any such activity".

Section 3(2) requires that the notification issued under Section 3(1) shall specify the grounds on which it is issued and such other particulars as the Central Government may consider necessary. The proviso to sub-section (2) of the said Section states that nothing in the said sub-section shall require the Central Government to disclose any fact which it considers to be against the public interest to disclose. Sub-section (3) of Section 3 states that no such notification shall have effect until the Tribunal has by an order made under Section 4, confirmed the declaration made therein and the order is published in the Official Gazette. The proviso to sub-section (3) of the said section provides that if the Central Government is of opinion that circumstances exist which render it necessary for that Government to declare an association to be unlawful with immediate effect, it may, for reasons to be stated in writing, direct that the notification shall, subject to any order that may be made under Section 4, have effect from the date of its publication in the Official Gazette.

Section 4 makes a provision requiring the Central Government to refer the notification declaring an association unlawful, to the Tribunal within 30 days from the date of the publication, for the purpose of adjudicating whether or not there is sufficient cause for declaring the association unlawful. Sub-section (2) of Section 4 requires the Tribunal on receipt of the reference to call upon such association to show cause within 30 days from the date of the service of the show cause notice, why the association should not be declared unlawful. Sub-section (3) of Section 4 then requires the Tribunal to consider the cause, if any, shown by the association or its office bearers or members, and to hold an inquiry in the manner specified in Section 9 of the Act and to adjudicate the issue as to whether there is sufficient cause or not for declaring the association to be unlawful, as expeditiously as possible and in any case within a period of six months from the date of the issue of the notification under sub-section (1) of Section 3, and make such order as it deems fit either confirming the declaration made in the notification or cancelling the same. The order so made by the Tribunal has to be published in the Official Gazette as required by sub-section (4) of the said section.

The adjudicating Tribunal known as the 'unlawful Activities (Prevention) Tribunal', consisting of one person to be appointed by the Central Government is constituted as per the provisions of Section 5 of the Act. The persons constituting the Tribunal has to be a Judge of the High Court. Sub-section (5) of Section 5 gives power to the Tribunal to regulate its own procedure in all matters arising out of the

discharge of its functions. Sub-section (6) of the said section read with Section 9 vests the Tribunal with the power of the civil court as laid down in the code of civil Procedure, 1908 for the purpose of holding the inquiry. It is not necessary to refer to any other provisions of the Act for the present purpose.

The words ‘adjudicating’ and ‘sufficient cause’ occurring in Section 4 of the Act are of utmost significance and have a legal connotation in the context of the inquiry which is to be made by the Triubnal. Their lordships of the Supreme Court in case Jamaat-E-Islami Hind Vs. Union of India [JT 1995(1) SC 31] in the above context have made the following observations which are of utmost significance :—

“The nature of inquiry contemplated by the Tribunal requires it to weigh the material on which the notification under sub-section (1) of Section 3 is issued by the Central Government, the cause shown by the association in reply to the notice issued to it and take into consideration such further information which it may call for, to decide the existence of sufficient cause for declaring the association to be unlawful. The entire procedure contemplates an objective determination made on the basis of material placed before the Tribunal by the two sides; and the inquiry is in the nature of adjudication of a lis between two parties the outcome of which depends on the weight of the material produced by them. Credibility of the material should, ordinarily, be capable of objective assessment. The decision to be made by the Tribunal is “whether or not there is sufficient cause for declaring the association unlawful”. Such a determination requires the Tribunal to reach the conclusion that the material to support the declaration outweighs the material against it and the additional weight to support the declaration is sufficient to sustain it. The test of greater probability appears to be the pragmatic test applicable in the context.”

(Emphasis supplied)

Their lordships in the above said case have further held :—

“To satisfy the minimum requirements of a proper adjudication, it is necessary that the Tribunal should have the means to ascertain the credibility of conflicting evidence relating to the points in controversy. Unless such a means is available to the Tribunal to determine the credibility of the material before it, it cannot choose between conflicting material and decide which one to prefer and accept. In such situation, the only option to it would be to accept the opinion of the Central Government, without any means to test the credibility of the material on which it is based. The adjudication made would cease to be an objective determination and be meaningless, equating the process with mere acceptance of the ipso dixit of the Central Government. The requirement of adjudication by the Tribunal contemplated under the Act does not permit abdication of its function by the

Tribunal to the Central Government providing merely its stamp of approval to the opinion of the Central Government. *The procedure to be followed by the Tribunal must, therefore, be such which enables the Tribunal to itself assess the credibility of conflicting material on any point in controversy and evolve a process by which it can decide whether to accept the version of the Central Government or to reject it in the light of the other view asserted by the association.* The difficulty in this sphere is likely to arise in relation to the evidence or material in respect of which the Central Government claims non-disclosure on the ground of public interest.

XX XX XX”

“Such a modified procedure while ensuring confidentiality of such information and its source, in public interest, also enables the adjudicating authority to test the credibility of the confidential information for the purpose of deciding whether it has to be preferred to the conflicting evidence of the other side. This modified procedure satisfies the minimum requirements of natural justice and also retains the basic element of an adjudicatory process which involves objective determination of the factual basis of the action taken.

XX XX XX”

“It follows that, ordinarily, the material on which the Tribunal can place reliance for deciding the existence of sufficient cause to support the declaration, must be of the kind which is capable of judicial scrutiny. In this context, the claim of privilege on the ground of public interest by the Central Government would be permissible and the Tribunal is empowered to devise a procedure by which it can satisfy itself of the credibility of the material without disclosing the same to the association, when public interest so requires. The requirements of natural justice can be suitably modified by the Tribunal to examine the material itself in the manner it considers appropriate, to assess its credibility without disclosing the same to the association. This modified procedure would satisfy the minimum requirement of natural justice and judicial scrutiny. The decision would then be that of the Tribunal itself.

(Emphasis supplied)

Having explained the legal position with regard to the scope and the nature of inquiry to be undertaken for adjudicating as to whether or not there is sufficient cause for declaring the BLT as unlawful association I now come to the merits of the case.

The term ‘unlawful association’ has been defined in Section 2(g) of the Act which runs as under :—

“unlawful association” means any association :—

(i) which has for its object any unlawful activity; or

- which encourages or aids persons to undertake any unlawful activity, or of which the members undertake such activity; or
- (ii) which has for its object any activity which is punishable under Section 153-A or Section 153-B of the Indian Penal Code, 1860 (45 of 1860), or which encourages or aids persons to undertake any such activity, or of which the members undertake any such activity:

Provided that nothing contained in sub-clause (ii) shall apply to the State of Jammu and Kashmir.]"

Clause (f) of Section 2 of the Act defines the terms 'unlawful activity' in the following words:—

"unlawful activity", in relation to an individual or association, means any action taken by such individual or association (whether by committing an act or by words, either spoken or written, or by signs or by visible representation or otherwise):—

- (i) which is intended, or supports any claim, to bring about, on any ground whatsoever, the cession of a part of the territory of India or the secession of a part of the territory of India from the Union, or which incites any individual or group of individuals to bring about such cession or secession;
- (ii) which disclaims, questions, disrupts or is intended to disrupt the sovereignty and territorial integrity of India:—

In terms of the above provisions of the Act an 'association' as defined in clause (a) of Section 2 of the Act, can be declared as an 'unlawful association' under Section 3(1) of the Act which has for its object any 'unlawful activity' or which encourages or aids persons to undertake any unlawful activity or of which the members undertake such activity or which has for its object any activity which is punishable under Section 153-A or Section 153-B IPC or which encourages or aids persons to undertake any such activity or of which the members undertake any such activity.

As already stated, Sh. L.K. Prasad (PW-12), Under Secretary to the Government of India, Ministry of Home Affairs and Sh. Moloy Bora (PW-11), Deputy Secretary (Home), Government of Assam with their respective affidavits, filed by them by way of evidence, have also annexed, besides others, a copy of the Constitution and a copy of the Manifesto of the above said Organisation (BLT). In the copy of the Constitution of BLT, copy of which is Exhibit PW-10/A, in Article 6 the aims and objectives of the Organisation have been spelled out and it is stated that the aims and objectives of the above said organisation is to create a 'separate Bodoland State' for the survival of Bodos. Article 15 of the above said document (Exhibit PW-10/A) providing for a parallel Government is of utmost significance. The same reads as under:—

"The BLT will form its own Govt. The Govt. will try to administer the proposed areas of the Separate State. The

Parallel Govt. will collect taxes from the public and cut off the taxes of the existing Govt. The Govt. shall be the underground Govt. and it shall be the top most confidential."

(Emphasis added)

Practically all the witnesses produced before this Tribunal, with one voice have stated that the main object of the above said Organisation is to create a separate State for the Bodos. Sh. S.N. Talukdar (PW-9), Special Superintendent of Police, CID, Assam has gone to the extent of saying that though the apparent objective of the above said organisation is to have a separate Bodoland State for the Bodos, but the manner in which they are functioning and trying to run a 'parallel government' their intention is secessionist. The above facts, as disclosed by Sh. Moloy Bora (PW-11) and Sh. L. K. Prasad (PW-12) in their respective affidavits, filed by way of evidence and the facts disclosed by the other witnesses in their oral testimony before this Tribunal have gone on record unrefuted and unchallenged which I see no reason to disbelieve.

In terms of the provisions contained in Section 2(g) (ii) of the Act an association which has for its object any activity which is punishable under Section 153-A or Section 153-B IPC or which encourages or aids persons to undertake any such activity or of which the members undertake any such activity is an 'unlawful association' within the meaning of the Act. Section 153-A and 153-B IPC referred to in the above provision of the Act, read as under:—

"153A. Promoting enmity between different groups on ground of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony.—

(1) Whoever

- (a) by words, either spoken or written, or by signs or by visible representations or otherwise, promotes or attempts to promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, or
- (b) commits any act which is prejudicial to the maintenance of harmony between different religious, racial, language or regional groups or castes or communities, and which disturbs or is likely to disturb the public tranquility, [or]
- (c) organizes any exercise, movement, drill or other similar activity intending that the participants in such activity shall use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, or participates in

such activity intending to use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, against any religious, racial, language or regional group or caste or community and such activity, for any reason whatsoever causes or is likely to cause fear or alarm or a feeling of insecurity amongst members of such religious, racial, language or regional group or caste or community,

shall be punished with imprisonment which may extend to three years, or with fine, or with both.

- (2) Offence committed in place of worship, etc.— Whoever commits an offence specified in sub-section (1) in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine."

153B. Imputations, assertions prejudicial to national integration.—(1) Whoever, by words either spoken or written or by signs or by visible representations or otherwise—

- (a) makes or publishes any imputation that any class of persons cannot, by reason of their being members of any religious, racial, language or regional group or caste or community, bear true faith and allegiance to the Constitution of India as by law established or uphold the sovereignty and integrity of India, or
- (b) asserts, counsels, advises, propagates or publishes that any class of persons shall, by reason of their being members of any religious, racial, language or regional group or caste or community, be denied or deprived of their rights as citizens of India, or
- (c) makes or publishes any assertion, counsel, plea or appeal concerning the obligation of any class of persons, by reason of their being members of any religious, racial, language or regional group or caste or community, and such assertion, counsel, plea or appeal causes or is likely to cause disharmony or feelings of enmity or hatred or ill-will between such members and other persons.

shall be punished with imprisonment which may extend to three years, or with fine, or with both.

- (2) Whoever, commits an offence specified in sub-section (1), in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with

imprisonment which may extend to five years and shall also be liable to fine."

On a bare reading of the provisions of the above quoted two Sections of IPC, it is apparent that the scope and sweep of the above mentioned two sections of IPC is very wide and the Legislature, in its wisdom, has taken ample care to ensure that these provisions contain an in built mechanism to check fissiparous communal and separatist tendencies whether based on the grounds of religion, caste, language, community or any other ground. Their Lordships of the Supreme Court in case *Babu Rao Patel Vs. The State (Delhi Administration)* (AIR 1980 SC 763) while interpreting the scope and sweep of Section 153A IPC have held that the above Section is not confined to the promotion of feelings of enmity etc. On grounds of religion only but takes in promotion of such feelings on other grounds as well such as race, place of birth, residence, language, caste or community. Section 153B IPC, as a matter of fact, supplements the provisions of Section 153A IPC.

On the basis of material on record, more particularly the facts as disclosed by Sh. B.K. Bordoloi (PW-1), Sh. Pallab Bhattacharyya (PW-2), Sh. Abdul Hakim (PW-3), Sh. P.D. Goswami (PW-4), Sh. L. B. Singh (PW-5), Sh. Enamul H. Laskar (PW-6), Sh. Sarat Goswami (PW-7), Sh. Anil Phookan (PW-8), Sh. S.N. Talukdar (PW-9), Sh. D. Ahmad (PW-10) and the facts as disclosed in the affidavits, filed by way of evidence by Sh. Moloy Bora (PW-11) and Sh. L.K. Prasad (PW-12), it is established that the BLT was formed during the year 1993. The above said Organisation framed a Constitution (copy Exhibit PW-10/A) of its own, the salient features of the same are as under :—

As per the Preamble of the Constitution of the BLT, the Constitution is framed "for the creation of a Separate Bodoland State for the survival of the Bodos and establish Democratic Socialism therein to free from all political, economic and social exploitation".

As per Articles 6 of this Constitution, one of the aims and objectives of the BLT is "to develop and organise insurgency and underground activities leading to a mass revolution for the creation of a separate Bodoland State for the survivals of the Bodos.

Under Article 11 of the Constitution of the BLT, the membership is confined to Bodos only. Further the members are required to give a written Bond with blood to sacrifice his/her life. In accordance with the provisions of this Article all members of the BLT will have to be imparted training in insurgency and tactical operations. The members are also required to organise and work for the mass revolution to achieve the aims of BLT.

In accordance with the provisions of Article 15 of this Constitution, the BLT will form its own parallel Government. The parallel Government will collect taxes from the public and cut off the taxes to the existing constitutionally elected Government. In accordance with the provisions of this Article, the

Government shall be the underground Government and it shall be the topmost confidential.

In accordance with the provisions of Article 16, a member of the BLT, who betrays or sabotages the aims and objectives of the BLT shall be SHOT DEAD by the BLT activists."

On a perusal of the various provisions of the Constitution of BLT, as quoted above it is clearly established that the above said Organisation decidedly questions and disrupts the 'sovereignty' and territorial integrity of India.

The above said Organisation has also published its manifesto, a copy of which is Exhibit PW-12/C. The opening para of the Manifesto reads as under :—

"In this last part of the 20th Century, the fightings of the oppressed, suppressed and neglected people against the oppressors, suppressors is a common phenomenon in the world. Realising the real factors how the Chauvinist Assamese and other high class ruling cliques of India have infiltrated in our culture, language, heritage and tradition by their own and are now planning to smash our identity. We, the sincere and sensitive Bodo youths have decided to form this Revolutionary Organisation, the Bodo Liberation Tiger (BLT) to fight against these chauvinism and hegemonism and to serve ourselves by carrying out the urgent demands of the entire Bodo people through an Arm Struggle to liberate the Bodo people from the complete assimilation and engulfment by them and to liberate the Tribal lands, areas, language, culture, customs and traditions from under the imposition and domination by the civilization, culture and language of Assamese chauvinism to promote all round welfare and development of the Bodo people according to their own genious and to flourish the Bodo nationality as a Great Master Race of the World." (Emphasis supplied)

A perusal of the Manifesto (Exhibit PW-12/C), referred to above, makes it amply clear that the aim and object of the Organisation is to carry out a 'hate campaign' against the members of the non-Bodo communities on the plea of fighting the alleged 'Assamese Chauvinism' which has resulted in an ethnic division between the members of the various communities residing in the Bodoland Autonomous Council (BAC) and the Bodo dominated areas thereby adversely affecting the national integration and communal harmony. The Organisation has formed its units in seven districts under the Bodoland Autonomous Council (BAC) areas, namely, Kokrajhar, Bongaigaon, Barpeta, Nalbari, Kamrup, Darrang and Sonitpur. In the initial stages the BLT had only 100/150 members but the membership of the outfit subsequently shot upto more than 1,000 active cadres, trained in handling of sophisticated arms and explosives. It is also established, on the basis of material on record, that the above said Organisation, in pursuance of its objectives had indulged in large scale terroristic and disruptive activities, mostly

targeting non-Bodos residing in Bodo dominated areas, thereby causing wide spread panic among the members of non-Bodo ethnic and religious communities. PW-10 Sh. D. Ahmad, Superintendent of Police, Special Operation Unit, Assam, Who is dealing with the extremists activities in the State of Assam in his statement stated that in the month of May, 1996, the BLT activists indulged in large scale attack on adivasi Santhals (non-Bodos) at Kokrajhar and Bongaigaon districts, which resulted in the exodus of about 2 lac. Santhals (non-Bodo Tribes) from their homes who were forced to take shelter in the relief camps set up by the Government. He has further stated that as a result of the above said violence, let loose by the armed activists of BLT, 160 non-Bodo persons (Santhals) were killed and more than 200 houses were set ablaze resulting in large scale damage to property and livestock in addition to the loss of valuable human lives. He, in his statement, has further stated that the Santhals, as a result of the above incident, are so much panic stricken that they have not gone back to their respective homes and still about 15,000 Santhals are there in 12 relief camps set up by the State Government.

On the basis of material on records which has gone unrebutted and unchallenged it is further established that in pursuance of its aims and objects the Organisation has been engaged in several unlawful and violent activities and that the terroristic activities, launched by the members of the BLT, have led to a deep sense of panic and insecurity amongst the non-Bodo communities in the Bodo dominated areas in the State of Assam. The activists of the BLT have been making planned attacks on police and civilians and have killed numerous innocent persons. It is also established that the members of the above said Organisation have been kidnapping people, mostly non-Bodos, to extort money for the purpose of funding the Organisation. A large quantity of sophisticated arms and ammunitions has also been recovered from the activists of BLT.

The material placed on record clearly shows that the BLT is an Organisation whose object is to develop and organise insurgency and underground activities with the object of creating a separate Bodoland State for the Bodos thereby threatening the sovereignty and integrity of India. It is further established that to achieve the aforesaid objectives the Organisation has instigated and aided its members to commit unlawful activities as stated here in above so as to create a fear psychosis in the minds of the non-Bodos residing in the Bodoland Autonomous Council Areas. All the above mentioned facts, as disclosed by the witnesses before this Tribunal in their oral testimony and also in the affidavits, filed by them by way of evidence, have gone on record unrebutted and unchallenged which I see no reason to disbelieve.

In view of the above discussion, in my opinion, there is sufficient cause for declaring the BLT as an 'unlawful association' within the meaning of Section 3 (i) of the Act by the Central Government and accordingly issue No. 1 is decided in favour of the Government.

ISSUE NO. 2

In view of my findings in respect of issue No. 1 this issue is also decided in favour of the Government and in my opinion there is sufficient cause for confirming the declaration made by the Central Government vide notification No. S.O. 715 (E) dated the 8th October, 1997 read with notification No. S.O. 773 (E) dated the 10th November, 1997 declaring the BLT as an 'unlawful association'. The declaration made by the Central Government vide above mentioned notification(s), therefore, deserves to be confirmed.

ISSUE NO. 3

In so far as the above issue is concerned the onus is on BLT/Sh. Mainao Diamary. No material, either documentary or in the form of oral evidence, has been placed either by said Sh. Mainao Diamary or by the BLT to the effect that said Sh. Mainao Diamary has been duly authorised to represent the cause of the BLT before this Tribunal. On the other hand Sh. L.K. Prasad, Under Secretary to the Government of India, Ministry of Home Affairs has filed an affidavit on behalf of the Central Government saying that no power of attorney or any other form of authorisation has been filed along with the reply authorising said Sh. Mainao Diamary to represent the BLT before this Tribunal. Similar affidavit has been filed on behalf of the State of Assam by Sh. Moloy Bora, Deputy Secretary to the Government of Assam, Home and Political Department. In the presence of the above facts the above said issue is decided against the BLT/Sh. Mainao Diamary.

CONCLUSION

In view of my findings on issues 1, 2 & 3 I am satisfied that there is sufficient cause for declaring the BLT to be an 'unlawful association' by the Central Government vide notification No. S.O. 715 (E) dated the 8th October, 1997 read with notification No. S.O. 773 (E) dated the 10th November, 1997, issued by the Government of India, Ministry of Home Affairs under Section 3 (1) of the Act. Accordingly, the declaration made by the Central Government in the above said notification(s) is hereby confirmed.

Before parting with the case I would like to place on record my appreciation for the valuable assistance rendered by Sh. A.K. Vali, learned counsel for the Central Government and by Sh. Vijay Hansaria, learned counsel for the State of Assam without whose able assistance it would have been difficult for the Tribunal to complete this task within the stipulated time. I also place on record my appreciation of the services rendered to this Tribunal by Sh. Ramesh Sharma, the Registrar of the Tribunal and his staff. Signed and delivered this 24th day of March, 1998 at New Delhi.

March 24, 1998

Justice Lokeshwar Prasad,
Unlawful Activities (Prevention)
Tribunal

[F. No. 11011/4/97-NE.IV]

G. K. PILLAI, Jt. Secy.